

EXHIBIT 27

C O N F I D E N T I A L

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

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In Re:

BERNARD L. MADOFF INVESTMENT
SECURITIES LLC,

Adv.Pro.No.
08-01789(BRL)

Debtor.

-----x
IRVING H. PICARD, Trustee for the
Liquidation of Bernard L. Madoff
Investment Securities LLC,

Plaintiff,

Adv.Pro.No.
09-1182(BRL)

v.

J. EZRA MERKIN, GABRIEL CAPITAL,
L.P., ARIEL FUND LTD., ASCOT
PARTNERS, L.P., GABRIEL CAPITAL
CORPORATION,

Defendants.
-----x

DEPOSITION of DAVID K. SHERMAN as
taken by and before MONIQUE VOUTHOURIS, Certified
Court Reporter, RPR, CRR and Notary Public of the
States of New York and New Jersey, at the offices of
Baker & Hostetler, 45 Rockefeller Plaza, New York,
New York, on Tuesday, August 30, 2011, commencing at
9:32 a.m.

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IRVING H. PICARD v. J. EZRA MERKIN

CONFIDENTIAL

DAVID K. SHERMAN 8/30/11

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1	Q.	Why is that?	12:49:37	1	is this something I should consider, is this		12:51:51
2	A.	III engaged in an enhanced credit	12:49:38	2	something you understand?		12:51:54
3		bias strategy, I believe using primarily credit	12:49:45	3	A.	I think he asked me for general views	12:51:55
4		default swaps using both investment grade and high	12:49:48	4		and thoughts and I provided it.	12:51:57
5		yield corporates, and I can't remember if their	12:49:52	5	Q.	Was that a common practice for him?	12:51:58
6		strategy was an interest rate treasury overlay, or	12:49:56	6	A.	Yeah.	12:52:01
7		it was just pure credit. And it was generally a	12:49:58	7	Q.	How often would he ask your advice on	12:52:03
8		long-short strategy using credit default swaps and	12:50:00	8		a potential investment?	12:52:05
9		it was something that was not a particularly strong	12:50:04	9	A.	You know, I never really measured it,	12:52:07
10		skillset of ours, that particular type of	12:50:10	10		but it came in spurts and bouts.	12:52:10
11		instrument, and it was a part of credit exposure	12:50:13	11	Q.	A couple times a year? A couple	12:52:12
12		that Spring Mountain thought was interesting and was	12:50:15	12		times a month?	12:52:15
13		being executed interesting, and they mentioned it to	12:50:19	13	A.	More than a couple times a year, and	12:52:16
14		Ezra. And Ezra, because I know some knowledge about	12:50:22	14		I, you know, I don't know how to quantify whether it	12:52:18
15		the credit markets, asked me for my views and	12:50:24	15		was in a month or per week or per whatever. Often	12:52:20
16		opinions, and Ezra asked me if I could give him	12:50:26	16		enough.	12:52:24
17		input from time to time on the strategy.	12:50:29	17	Q.	I want to ask your understanding	12:52:24
18	Q.	So this was -- so Ezra was asking you	12:50:32	18		about Mr. Madoff's organization BLMIS and direct my	12:52:34
19		for investment advice as to something that Spring	12:50:35	19		questions to your understanding before his arrest on	12:52:42
20		Mountain was doing?	12:50:39	20		December 11th, 2008.	12:52:45
21		MR. STEINER: Objection to the form.	12:50:40	21		Is it correct that at some point you	12:52:48
22	A.	Can you rephrase the question.	12:50:40	22		understood that Mr. Merkin was making investments	12:52:53
23	Q.	You said III, which is a fund of	12:50:42	23		for some of his funds into BLMIS?	12:52:56
24		Spring Mountain. Is that correct?	12:50:47	24		MR. STEINER: Objection to form.	12:53:01
25	A.	No.	12:50:49	25	A.	Can you repeat the question?	12:53:02

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1	Q.	What is III?	12:50:50	1	Q.	Sure. At some point in time before	12:53:03
2	A.	I believe III is a money management	12:50:52	2		December 11th, 2008 you became aware that Mr. Merkin	12:53:05
3		firm in Florida.	12:50:56	3		was investing monies from some of his funds into	12:53:08
4	Q.	Okay.	12:50:57	4		BLMIS?	12:53:12
5	A.	Or something like that, or the money	12:50:58	5		MR. STEINER: Objection to form.	12:53:13
6		management firm in Florida controls III.	12:51:00	6	A.	No. I might -- I became aware he was	12:53:15
7	Q.	Is it in any way related to Spring	12:51:03	7		investing money with Bernie Madoff. I'm not sure I	12:53:18
8		Mountain?	12:51:07	8		knew the structure, the name of the entity. I mean,	12:53:22
9	A.	To the best of my knowledge, no.	12:51:07	9		I just knew Bernie Madoff.	12:53:24
10	Q.	The e-mail reads from Mr. Autera to	12:51:08	10	Q.	Do you know which funds -- at those	12:53:27
11		Jason, "In response to your voicemail message, we	12:51:16	11		times were you aware of which funds were investing	12:53:30
12		made the following III Enhanced Credit Bias Fund	12:51:20	12		in Madoff?	12:53:33
13		subscriptions as of November 1st."	12:51:24	13		MR. STEINER: Objection to form.	12:53:34
14		Why would Mr. Autera be sending that	12:51:25	14	A.	Again, I don't know when I became	12:53:36
15		to Jason Orchard of Spring Mountain?	12:51:28	15		aware that Ezra had an investment relationship with	12:53:39
16	A.	I don't know.	12:51:30	16		Madoff investments. At some point I became aware	12:53:43
17	Q.	But, nonetheless, you testified that	12:51:31	17		that Ascot certainly had a significant exposure to	12:53:47
18		Mr. Merkin did ask you for some advice concerning	12:51:34	18		Madoff, and subsequent to that understanding I	12:53:51
19		this subscription?	12:51:37	19		became aware that Gabriel and Ariel may have had	12:53:55
20	A.	No. I said he asked me some advice	12:51:38	20		some exposure to Madoff.	12:54:00
21		regarding the strategy in III.	12:51:42	21	Q.	So you first understood as to Ascot	12:54:04
22	Q.	And then what specifically did he ask	12:51:44	22		and then at some point later as to Ariel and	12:54:07
23		you?	12:51:46	23		Gabriel?	12:54:09
24	A.	I don't recall.	12:51:46	24	A.	To the best of my recollection, that	12:54:10
25	Q.	Did he ask was it along the lines of	12:51:48	25		would be correct.	12:54:11

35 (Pages 128 to 131)